

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

REBECCA TERRY,

Plaintiff,

vs.

Case No. 17-CV-01112

COUNTY OF MILWAUKEE, et al.,

Defendants.

Deposition of DECORIE L. SMITH

Wednesday, August 8th, 2018

10:05 a.m.

at

LEIB KNOTT GAYNOR LLC
219 North Milwaukee Street, Suite 710
Milwaukee, Wisconsin

Reported by Elaine A. Thies, RPR

<p style="text-align: right;">Page 10</p> <p>1 A No, ma'am.</p> <p>2 Q Okay. Do you know someone named Morgan Bevenue?</p> <p>3 A Not to my recollection so I would have to say no.</p> <p>4 Q Okay. Turning your attention to what we'll mark as</p> <p>5 Exhibit 1 which is the log that your counsel handed</p> <p>6 me. It's marked MKE County 999.</p> <p>7 (Exhibit 1 marked for identification.)</p> <p>8 BY MS. KLEINHAUS:</p> <p>9 Q Take a look at this. Are you familiar with</p> <p>10 Exhibit 1?</p> <p>11 A Yes, ma'am.</p> <p>12 Q What is it?</p> <p>13 A It's a copy of our jail log.</p> <p>14 Q And is that for March -- What date is that for?</p> <p>15 A It's for March 9th and then going to March 10th.</p> <p>16 Q Okay. The correctional officers using the log</p> <p>17 enter information using their initials; correct?</p> <p>18 A Yes.</p> <p>19 Q Is there any spot on the log where you see your</p> <p>20 initials?</p> <p>21 A Yes.</p> <p>22 Q And where is that?</p> <p>23 A At 3:27.</p> <p>24 Q Okay. And can you read for the record what it says</p> <p>25 your activity was at 3:27.</p>	<p style="text-align: right;">Page 12</p> <p>1 entrance of the Special Medical Unit. From cell one</p> <p>2 I look inside the cell, check for the rising of the</p> <p>3 chest. Once I see that I move onto cell two. And</p> <p>4 that process is repeated until I get to cell -- to</p> <p>5 the last cell. Then I go back to the work desk and I</p> <p>6 put in the jail log that the inspection is completed.</p> <p>7 Q And on how many occasions throughout your career</p> <p>8 have you done an inspection like that?</p> <p>9 A Every time I do an inspection.</p> <p>10 Q Okay. So in a typical third -- A third shift is an</p> <p>11 eight-hour shift; right?</p> <p>12 A Yes.</p> <p>13 Q In an eight-hour shift you're expected to do</p> <p>14 inspection every 30 minutes; right?</p> <p>15 A Sixteen inspections.</p> <p>16 Q So 16 inspections every shift?</p> <p>17 A (Witness nodded head.)</p> <p>18 Q And you've been working there for nine years?</p> <p>19 A Yes, ma'am.</p> <p>20 Q Okay. Is it your testimony that you have a</p> <p>21 specific recollection of the one that happened on</p> <p>22 March 10th of 2014?</p> <p>23 A In regards to this inspection I would have to say</p> <p>24 yes.</p> <p>25 Q What about -- Am I correct that you walked around</p>
<p style="text-align: right;">Page 11</p> <p>1 A Scheduled inspection completed. No inmates in</p> <p>2 obvious physical duress.</p> <p>3 Q And what's the location where you were working?</p> <p>4 A Special Medical Unit.</p> <p>5 Q Okay. You can put Exhibit 1 to the side. Or, I'm</p> <p>6 sorry, actually is there any other spot on</p> <p>7 Exhibit 1 that you see your initials?</p> <p>8 A No, ma'am.</p> <p>9 Q Okay. Do you know -- Do you have an independent</p> <p>10 recollection of doing an inspection on March 10th</p> <p>11 at 3:27 a.m.?</p> <p>12 A Yes.</p> <p>13 Q You do have an independent recollection of that in</p> <p>14 your mind?</p> <p>15 A As far as doing the inspection?</p> <p>16 Q Yes.</p> <p>17 A Yes.</p> <p>18 Q Okay. What do you remember about it?</p> <p>19 A I remember it being very quiet and not having the</p> <p>20 need to put any additional information in the jail</p> <p>21 log or in my daybook.</p> <p>22 Q Tell me the steps you took to complete the</p> <p>23 inspection.</p> <p>24 A You physically get up from the workstation. I will</p> <p>25 make a right, head towards cell one which is by the</p>	<p style="text-align: right;">Page 13</p> <p>1 each cell and you didn't see anything wrong with</p> <p>2 anybody; right?</p> <p>3 A If I didn't -- For me if I didn't put anything in the</p> <p>4 jail log, then I didn't see anything to --</p> <p>5 Q Okay. What causes you to have an independent</p> <p>6 recollection, and by that I mean you're able to</p> <p>7 remember it -- you're not assuming something about</p> <p>8 what you did; you're able to remember it</p> <p>9 yourself -- what causes you to remember this</p> <p>10 inspection at 3:27 a.m. on March 10th?</p> <p>11 A The cause is again for me I'm a very meticulous</p> <p>12 individual so when I do anything I make sure that I</p> <p>13 dot all my i's and cross all my t's, so for me if I</p> <p>14 didn't put anything in the jail log, they didn't call</p> <p>15 for assistance, they didn't advise my supervisors,</p> <p>16 then I have the ability to go off of what I put in</p> <p>17 the system, so for -- to answer, if it wasn't written</p> <p>18 down by me it didn't happen.</p> <p>19 Q Okay. So do you have a memory of doing that</p> <p>20 inspection, or is your testimony based on</p> <p>21 Exhibit 1?</p> <p>22 A It would be based off of the Exhibit 1.</p> <p>23 Q Okay. How was it that you were the one in the SMU</p> <p>24 at 3:27 a.m., do you know?</p> <p>25 A At that -- On that particular night I was assigned to</p>

<p style="text-align: right;">Page 18</p> <p>1 A I would have to say no because I was the break 2 officer. 3 Q And when I say lights above the cells, I mean the 4 ones that come on when somebody's asking for help. 5 A The call button light. 6 Q The call button light, right. 7 Do you have any independent 8 recollection, meaning a memory in your mind, of 9 whether a call button light was on above 10 Ms. Terry's cell? 11 A No, ma'am. 12 Q Other than this inspection that you believe 13 happened because of Exhibit 1, did you have any 14 other interaction with Ms. Terry that you know of? 15 A No, ma'am. 16 Q Okay. Did you ever have any discussion with 17 anybody at Milwaukee County Jail about the fact 18 that Ms. Terry gave birth in the jail cell by 19 herself? 20 A No, ma'am. 21 Q Were you ever debriefed or interviewed by anyone 22 from Milwaukee County about the evening of 23 March 9th and 10th and Ms. Terry's condition? 24 A No, ma'am. 25 MS. KUGLER: Objection, form.</p>	<p style="text-align: right;">Page 20</p> <p>1 A Physical distress per our training would be someone 2 who has an inability to function properly, meaning if 3 they couldn't walk, count breathe, was unable to 4 talk, respond. 5 Q And during third shift would you check their 6 ability to respond? 7 A Yes. 8 MS. KUGLER: Objection, form. 9 BY MS. KLEINHAUS: 10 Q Okay. How would you check for that? 11 A If you're the officer who is assigned to a spot when 12 you do your initial inspection, I was trained that 13 you get everyone's attention so you gently knock on 14 the door, ask them how they're doing, and that's the 15 way that you get their attention as well as collect 16 your formal count. 17 Q Okay. If someone is assigned to the pod in the 18 course of your shift, is there anything you're 19 trained to do to evaluate their ability to respond? 20 A For the jail the system has been set up where if 21 someone feels that they're in -- having a medical 22 emergency, there are call buttons. You have officers 23 assigned to areas so that communication can be 24 reached. 25 Q My question is a little bit different. Were you</p>
<p style="text-align: right;">Page 19</p> <p>1 BY MS. KLEINHAUS: 2 Q When was the first time that you learned that 3 Ms. Terry had given birth in the SMU? 4 A I cannot recall. 5 Q Have you ever received any training from Armor 6 Corporation? 7 A Pertaining to what? 8 Q Anything. 9 A No, ma'am. 10 Q Have you ever received any training from Milwaukee 11 County about pregnant inmates? 12 A No, ma'am. 13 Q Have you ever worked as a sheriff's deputy? 14 A No, ma'am. 15 Q Have you ever been present for a hospital watch at 16 the hospital? 17 A No, ma'am. 18 MS. KLEINHAUS: Okay. I think I'm almost 19 through. I just want to take a quick break; okay? 20 THE WITNESS: Okay. 21 (Recess taken from 10:26 until 10:31 a.m.) 22 BY MS. KLEINHAUS: 23 Q Can you tell me what you were told counts as 24 physical distress or how to identify that someone's 25 in physical distress?</p>	<p style="text-align: right;">Page 21</p> <p>1 given any training on how to evaluate someone's 2 ability to respond if they're not there at the time 3 of the initial inspection? 4 A That falls under the general training. I mean it's a 5 generalized ability to observe individuals, so if 6 you're assigned or it's your task to monitor 7 individuals, that that falls under the scope of your 8 training. 9 Q Okay. Other than talking to people during the 10 initial inspection on your shift, is there anything 11 else you were trained to do on third shift to check 12 someone's ability to respond? 13 A Continuous inspections done every 30 minutes. 14 Q How does that check their ability to respond? 15 A By observing them. So if I walk past your cell, I'm 16 looking in your cell to see if you have the ability 17 to even respond by seeing if your chest is rising, by 18 checking to see if you're breathing. 19 Q Have you ever logged a detainee as being in obvious 20 physical distress? 21 A Yes. 22 Q Okay. On how many occasions have you done that? 23 A Numerous. I wouldn't be able to give you an exact 24 number. 25 Q Okay. And on those numerous occasions were those</p>